



**STATE OF VERMONT  
HUMAN RIGHTS COMMISSION  
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January 2, 2002

Speaker of the House  
President Pro Tempore of the Senate  
The Statehouse  
Montpelier, Vermont

Dear Speaker of the House and President Pro Tempore of the Senate:

On behalf of the Commissioners and staff of the Human Rights Commission, we are pleased to submit the Commission's 2001 Annual Report.

This past year saw substantial change at the Commission. The first major change was the resignation of Harvey Golubock as the Commission's Executive Director after five years of dedicated service on behalf of the citizens of Vermont. In October 2001, the Commission hired Robert Appel as its new Executive Director. Mr. Appel served two four year terms as Vermont's Defender General (1993-2001), and was previously the Assistant Attorney General for Civil Rights from 1989 to 1993 enforcing Vermont's statutes on employment discrimination. His experience in civil rights enforcement, the workings of Vermont state government and litigation make him a welcome addition to the Commission's staff.

The second major change was Governor Dean's recent appointment of Charles (Chuck) Kletecka as a Human Rights Commissioner. Mr. Kletecka, who is gay and has AIDS, is a social worker who has worked with people with chronic illnesses, including those who are HIV positive and those who have AIDS. His experience, enthusiasm and commitment to equal rights for all has already proven to be a positive force in the work of the Human Rights Commission.

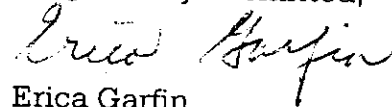
Also transforming the Human Rights Commission is the strategic planning process we embarked upon in 2001. During this time of change in leadership of the Commission, the five commissioners and five staff members have joined in a concerted effort to assess the Commission's strengths and

weaknesses. This planning process will allow us to channel our energies in the areas which continue to be most challenging to the "enjoyment of full civil and human rights." Targeted activities include: improving investigation efficiency, expanding the use of mediation, increasing the public's awareness of the activities of the Commission throughout Vermont; and, engaging in regular organizational planning and assessment.

The Commission continued to expand its education and outreach efforts in 2001, substantially increasing the number of educational events in which it participated during the year. The Commissioners and staff met with such diverse groups as: the Vermont Center for Independent Living, the Vermont Coalition for Gay and Lesbian Rights, the Burlington Interfaith Clergy Association, the African American Alliance of the Northeast Kingdom, the Association of the Blind and Visually Impaired, the Vermont Housing Managers Association, Outright Vermont, the Montpelier Clergy Association, Women of Color Alliance, the Woodstock Senior Center, the Vermont Employment Lawyers Association, and the Coalition for Disability Rights, among others.

The Commissioners and staff of the Human Rights Commission remain committed to securing the civil rights of all Vermonters.

Respectfully submitted,



Erica Garfin  
Commission Chair

Cc: Governor Dean  
Lt. Governor Racine

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## **MANDATE**

The Vermont Human Rights Commission is the state agency having jurisdiction over claims of unlawful discrimination in housing and state employment, and in the provision of goods and services by businesses (including stores, restaurants, professional offices, and hospitals) and by state and local governments (including schools). The Commission has three statutorily mandated roles: enforcement, conciliation, and education.

The Commission is charged with enforcing Vermont's civil rights laws. It investigates allegations of discrimination and determines whether there are reasonable grounds to believe that unlawful discrimination occurred in a case. The Commission's staff seeks to resolve charges through conciliation and mediation. If the Commission finds that there was discrimination in a case and the case cannot be settled, the Commission is authorized to go to court to obtain remedies for violations of the State's civil rights laws.

The Commission is also charged with: 1) increasing "public awareness of the importance of full civil and human rights for each inhabitant of this state;" 2) examining "the existence of practices of discrimination which detract from the enjoyment of full civil and human rights;" and, 3) recommending "measures designed to protect those rights." See 9 V.S.A. §4552. In furtherance of these goals, the Commission's staff speaks with individuals and groups about their rights and responsibilities under state and federal civil rights laws, works with individuals, agencies, and groups to combat bias and bigotry, and supplies information, legal analysis, and advice to the Legislature.

### **Human Rights Commission Staff**

Harvey Golubock	Executive Director through October 2001
Sam Abel-Palmer	Investigator
Carol Bliss	Case Manager
Paul Erlbaum	Investigator
Tracey Tsugawa	Investigator
Robert Appel	Executive Director from November 2001



# **OUTLINE OF AN INVESTIGATION**



## **CONTACT INFORMATION**

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Anyone who believes that he or she has been subject to unlawful discrimination may file a charge under oath with the Commission. Charges may be filed in person at the Commission's offices, by telephone, or in writing. The Commission may accept a charge for investigation if it states a prima facie case, that is, if the facts alleged in the charge amount to unlawful discrimination.



The person or entity against whom a charge has been filed is sent a copy of the charge and asked to respond in writing to the allegations in the charge.



Investigators on the Commission's staff investigate the charge and the response by interviewing the parties and witnesses and by gathering and analyzing documents and other information.



The Commission staff attempts to facilitate settlements at all stages of a case. In addition, the Commission offers parties the services of professional mediators at no cost to assist them to settle cases. If the parties arrive at a resolution of the charge that is satisfactory to them and the Commission, the Commission will close the case and take no further action in the case except to assist in enforcing the terms of the settlement, if that becomes necessary.

- ❏ If the parties cannot arrive at a settlement, the Commission's Investigators will complete the investigation and prepare an Investigative Report. The Report states the facts as the Investigator finds them and, based upon those facts and the applicable law, recommends that the Commission find either that there are reasonable grounds to believe that unlawful discrimination occurred or that there are no such grounds.
- ❏ The Investigative Report is not the final outcome of the case; it is only a recommendation to the Commissioners. The Commission sends the Investigative Report to both parties and invites them to submit written responses explaining why they agree or disagree with the Report. The Commissioners review the Investigative Report and the parties' written responses to the Report before they meet to consider a case.
- ❏ The Commission notifies the parties of the date of the meeting at which the Commissioners will consider their case and encourages them to attend the meeting in person or by telephone. Parties attending the meeting have the opportunity to make oral presentations to the Commissioners and to answer the Commissioners' questions about the case. After considering the Investigative Report, the written responses of the parties, and the presentations at the meeting, the Commissioners make a final determination, by majority vote, whether there are reasonable grounds to believe that unlawful discrimination occurred.
- ❏ If the Commission finds reasonable grounds to believe that discrimination occurred, its staff will again try to facilitate a settlement. If no settlement can be reached, the Commission will either commence a lawsuit or close the case.

# **JURISDICTION**

The Vermont Human Rights Commission has jurisdiction over allegations of discrimination in the following areas:

<b><u>HOUSING</u></b>	<b><u>PUBLIC ACCOMMODATIONS</u></b>	<b><u>STATE EMPLOYMENT</u></b>
(rental/sale)	(schools, restaurants, stores, professional offices, government agencies, and other places offering goods or services to the public)	
Race	Race	Race
Color	Color	Color
Sex	Sex	Sex
Religion	Religion	Religion
National Origin	National Origin	National Origin
Disability	Disability	Disability
Sexual Orientation	Sexual Orientation	Sexual Orientation
Marital Status	Marital Status	
Age		Age
Minor Children		
Public Assistance		
		Ancestry
		Place of Birth
		HIV related blood test
		Workers' Compensation
		Family/Parental Leave



## **EDUCATION AND OUTREACH**

The Human Rights Commission is charged with increasing the public's awareness of Vermont's civil rights laws. It fulfills this mandate by conducting seminars about civil rights laws and the Commission's role in enforcing those laws, by speaking with groups about their rights and responsibilities under those laws, and by responding to inquiries from members of the public. In 2001, the Commissioners and staff doubled the number of education and outreach efforts in which they participated. Some of these events are described below:

- **Americans with Disabilities Act Coalition**

Worked with the ADA Coalition and the Vermont Center for Independent Living to prepare and present a program celebrating the 10th Anniversary of the Americans with Disabilities Act.

- **Women's Economic Conference**

Provided information about employment discrimination laws and the role of the Human Rights Commission.

- **Women Vote 2000 Kick Off**

Presented talk on Vermont's civil rights laws and the role of the Human Rights Commission.

- **Vermont Coalition for Lesbian and Gay Rights**

Provided information on Vermont's civil rights laws and the role of the Human Rights Commission at Town Meeting of gay, lesbian, bi-sexual and transgendered community.

- **Governor's Summit on the Employment of Individuals with Disabilities**

Participated in event focused on increasing employment opportunities for individuals with disabilities.

- **Vermont Employment Lawyers Association**

Presented talk on Vermont's employment discrimination law and the role of the Human Rights Commission.

- **Community College of Vermont**

Participated in Dialogue on Race .  
Presented talk on civil rights laws to Citizenship Class.

- **Central Vermont Adult Basic Education**

Participated in dialogue on diversity.

- **International Human Rights Day**

Participated in an event to commemorate International Human Rights Day.

- **Martin Luther King Day**

Participated in an event honoring the Rev. Martin Luther King, Jr..

- **Lost Nation Theater**

Led discussions about race following performances of play "Having Our Say."

- **Associates for Physical and Occupational Therapy**

Presented talk on disability rights laws and the role of the Human Rights Commission.

- **Community Justice Center**

Presented talk on discrimination in Vermont and the role of the Human Rights Commission.

- **Burlington Community Economic Development Office**

Participated in a series of meetings to address needs of refugees in Vermont.

- **Fair Housing Council**

Participated in a series of meetings with state agencies and public housing providers designed to further fair housing in Vermont

- **Burlington Interfaith Clergy Association**

Presented talk on discrimination in Vermont and the role of the Human Rights Commission.

- **Montpelier Clergy Association**

Presented talk on Vermont's civil rights laws and the role of the Human Rights Commission.

- **African-American Alliance of the Northeast Kingdom**  
Participated in discussion about racial discrimination in the Northeast Kingdom and the role of the Human Rights Commission.
- **Woodstock Senior Center**  
Presented talk about the Civil Unions Law.
- **Women of Color Alliance**  
Presented talk at "Women's Night Out" on racial discrimination and role of the Human Rights Commission.
- **Television Channel 17**  
Presented talk about the fair housing laws and the role of the Human Rights Commission on the "Housing and Communities" show.
- **Vermont Housing Managers Association**  
Presented talk on the fair housing laws and the role of the Human Rights Commission.
- **U.S. Department of Housing & Urban Development**  
Presented talk on the fair housing laws and the role of the Human Rights Commission at HUD workshop.
- **Outright Vermont**  
Participated in discussions about sexual orientation harassment in Vermont schools and the role of the Human Rights Commission.
- **RU12 Annual Meeting**  
Provided information on Vermont's civil rights laws and the role of the Human Rights Commission at meeting of gay, lesbian, bi-sexual and transgendered community.
- **Norwich University**  
Taught government class on Vermont's civil rights laws and the role of the Human Rights Commission.

- **Diversity Coalition**

Participated in discussions about sexual orientation harassment in Vermont schools.

- **Vermont Center for Independent Living**

Presented talk on fair housing laws and the role of the Human Rights Commission at Fair Housing for Individuals with Disabilities Conference

Participated in events commemorating Center's 11<sup>th</sup> anniversary

- **Mountain Pride Media**

Participated in event commemorating 15<sup>th</sup> anniversary of Out In The Mountains newspaper.

- **Vermont Pride 2001**

Provided information on Vermont's civil rights laws and the role of the Human Rights Commission at event sponsored by gay, lesbian, bisexual and transgendered community.

- **University of Vermont Center for Cultural Pluralism**

Participated in discussion about relations between Vermont's African-American and Jewish communities.

- **Good News Garage**

Presented talk on Vermont's civil rights laws and the role of the Human Rights Commission.

- **Woodbury College**

Presented talk on Commission investigations to class on Investigative Techniques.

- **Civil Union Review Commission**

Participated in review of the Civil Union Law as member of Commission established by Legislature to study effects of Law and to report its findings and recommendations.

- **Vermont Bar Association**

Participated in meetings of Disability Law Committee

## **LEGISLATIVE ACTIVITY**

Among the responsibilities with which the Legislature has charged the Human Rights Commission is the duty to "examine and evaluate" the effectiveness of Vermont's civil rights laws and "the existence of practices of discrimination which detract from the enjoyment of full civil and human rights." The Commission is further mandated to "recommend measures designed to protect those rights." 9 V.S.A. § 4552(a). The Commission fulfills this mandate by, among other things, suggesting legislation designed to protect Vermonters' civil rights, commenting on proposed legislation that would affect civil rights, and providing information and advice to the Legislature.

During the 2001 Legislative Session, the Human Rights Commission worked to secure the passage of the bills described below.

### **Act 16 – Foreign Language Credit For The Study Of American Sign Language**

American Sign Language (ASL) is generally accepted as the language of the American Deaf community and is the fourth most commonly used language in the United States and Canada. Recognizing these facts, Act 16: 1) authorizes schools to offer ASL as a course of study for credit; 2) directs the state Board of Education to establish licensing standards for teachers of ASL; and, 3) directs the Commissioner of Education to encourage post-secondary institutions to accept secondary school ASL credits as foreign language credits as well as to offer ASL courses.

### **S.102 – Equal Pay for Equal Work**

In 1998, the wages of American women who worked were only 73% of the wages earned by men. According to a report by the National Academy of Sciences, only one-half of this gap can be explained by differences in experience, education, or other legitimate qualifications. A portion of the gap can be attributed to the fact that many women work in traditionally female-dominated jobs where wages are low. However, women earn less than men even when they are in the same occupations.

S.102 would bring Vermont's Fair Employment Practices Act (FEPA), 21 V.S.A. § 495 et seq., into conformity with the federal Equal Pay Act, 29 U.S.C. § 206(d), enacted by Congress in 1963. This law would prohibit paying wages to employees of one sex at a lower rate than wages paid to employees of the opposite sex for equal work that requires equal skill, efforts, and responsibility and is performed under similar working conditions. S.102 passed the Senate by a vote of 28-0 late last session and is currently awaiting action in the House General, Housing & Military Affairs Committee.

### **S.109 – Unlawful Employment Practices**

S.109 would bring the Fair Employment Practices Act into conformity with federal employment discrimination law by: 1) making it illegal to retaliate against an employee for exercising any right granted by the Act; 2) for testifying or assisting or participating in an investigation, proceeding, or hearing conducted under the Act; or, 3) for inquiring about, disclosing, or discussing the employee's salary. S.109 passed the Senate late in the session and is in the House General, Housing & Military Affairs Committee awaiting further action.

### **H.189 – Sexual Exploitation Of An Inmate**

State employees who supervise prison inmates and parolees have enormous power over those inmates and parolees. Some unscrupulous individuals may use this power to extort sexual favors through explicit or implicit threats of retaliation or promises of reward or privilege. Amnesty International, Human Rights Watch, and the U.N. Commission on Human Rights have reported sexual abuse in prisons in all 50 states of this country.

Vermont is one of fewer than half a dozen states that does not criminalize all sexual contact between correctional employees and prison inmates. (Consent would not be a defense to this new crime.) H.189 would make it a crime for an employee of the Department of Corrections to engage in sexual acts with an individual in the custody or under the control of the Department.

H.189 is presently pending in the House Institutions Committee.

### **H.407 – Establishment Of A Racial Profiling Task Force**

In 1999, African-Americans made up approximately one-half of 1 percent of Vermont's population but accounted for 2.5% of the arrests in the State and more than 4% of the State's prison population. African-Americans in Vermont are arrested at a rate five times that of the general population of the State and are jailed at a rate eight times that of the general population. H.407 would establish a task force comprised of criminal justice professionals, legislators and members of the public who would be charged with ascertaining the causes of these disparities and recommending ways to address the issue. H.407 is in the House Government Operations Committee.

### **S.161 – Paid Parental Leave**

Vermont's Parental & Family Leave Act, 21 V.S.A. § 470 et seq., guarantees employees of businesses which employ ten or more employees the right to take a 12-week unpaid leave of absence following the birth or adoption of a child. The Act recognizes the changes that are taking place in society and family structures. As of 1998, both parents worked in the majority of U.S. households and 60% of women with children less than one year of age worked.

S.161 recognizes that most parents who work outside the home while caring for infants do so out of economic necessity and that economic necessity also prevents most of these parents from utilizing the unpaid parental leave guaranteed by the Act. In a recent study conducted by the U.S. Department of Labor, the most common reason cited for not taking parental leave was the inability to afford it.

S. 161 would allow a parent to receive unemployment compensation while he or she is out of work on parental leave. The Governor included funds in his proposed budget to cover the cost of paying for parental leave. The House took the funding out of the budget, the Senate restored it, and the funding was ultimately removed from the budget in the House-Senate Conference Committee.



## **MEDIATION PROGRAM**

In 1998, the Human Rights Commission instituted a Mediation Program to provide professional mediators at no cost to parties to assist them in resolving their cases in a mutually acceptable manner.

If the Commission's staff determines that a case is appropriate for mediation, it sends the parties information about mediation with an invitation to participate in the mediation program. Mediation is entirely voluntary; it will not take place unless both parties agree to it. If the parties elect to participate in mediation, they meet with a mediator who attempts to help them work out a mutually satisfactory resolution of the case. If the mediation produces a settlement which the Commission accepts, the Commission will close the case and take no further action except to assist in enforcing the terms of the settlement, if that becomes necessary. If the case is not settled through mediation, the Commission's staff will pursue the investigation of the case to completion and the Commission will issue a final determination.

The Mediation Program fulfills a number of Commission goals:

- Mediation is an effective method for achieving equitable results through a collaborative, rather than an adversarial, approach to resolving disputes. Studies have shown that there is greater satisfaction with dispute resolutions arrived at through the approach used in mediation than through resolutions imposed in litigation. In addition, mediation is more timely and less expensive than investigations and litigation.
- Discrimination charges are often only one facet of parties' disputes. Mediation allows parties to be creative in crafting a resolution of the full range of issues dividing them.
- Commission staff has always attempted to facilitate settlements and continues to do so. However, because of the Commission's fact-finding and enforcement functions, some parties are reluctant to discuss their positions with the staff with a frankness that is conducive to settlement. Since what goes on in mediation is confidential, parties' discussions are less inhibited. In addition, although attempting to facilitate settlements is an important role of Commission staff, unlike professional mediators, the staff cannot devote their exclusive attention to conciliation.
- Mediation allows the Commission to focus its limited resources on: cases which cannot be settled; cases which raise broad policy issues; cases which affect a large number individuals; and, cases in which the respondent has previously violated the law.

The Commission has offered mediation in 79 cases since the Program's inception. Parties have agreed to mediation in 42 cases and have rejected it in 37 cases. Mediation has led to settlements in 23 cases; settlement was not reached in 13 mediated cases with the remaining 6 still in process.

Some of the settlements arrived at through the Human Rights Commission's Mediation Program since its inception are described below.

### **School Cases**

- A high school agreed to revise its harassment procedures, to have its staff trained in diversity issues, and to pay \$30,000 to a student who alleged that he had been racially harassed at the school.
- A college agreed to pay \$30,000 to a student who alleged she had been sexually harassed by a staff member.
- A high school agreed to pay \$15,000 to a female student who alleged that she had been sexually harassed when she tried out for a previously all-male sports team.
- A college agreed to pay \$15,000 to a student who alleged that it had refused to provide reasonable accommodations for her disability.
- A school agreed to hire outside professionals to provide diversity training for its staff and entire student body.
- A high school agreed to pay for the home tutoring of a student who withdrew from school because of what she contended was sexual harassment.

### **Employment Cases**

- Employers made payments of \$98,000, \$50,000, and \$30,000 in settlement of three cases in which female employees alleged that they had been sexually harassed by their co-workers.
- A school agreed to pay \$10,000 to a teacher who alleged that the school had retaliated against her for claiming that the school failed to provide reasonable accommodations for students with disabilities.
- A college agreed to grant free tuition to the two daughters of a former employee who alleged that the college had discharged her because of her disability.

### Other Cases

- A city agreed to install a ramp at city hall and make a restroom there accessible to individuals with disabilities and to pay the charging party \$22,500.
- A housing provider agreed to pay \$1,500 to an individual with disabilities who alleged that the provider refused to permit her to keep a service dog in her mobile home.
- A housing provider agreed to pay \$1,000 to a woman who alleged that the provider refused to rent her a unit because of her sexual orientation.
- A housing provider agreed to set aside a parking space for a tenant with a mobility impairment.
- A campground agreed to allow a child with a skin disorder to use its pool



## **CASE SUMMARIES**

Some of the cases the Commission dealt with in FY01 are described below.

### **PUBLIC ACCOMMODATIONS**

#### **Disability Discrimination Cases**

- Several charges allege that banks violated disability discrimination laws because they failed to make their ATM machines accessible to the blind by installing software that translates the visual information on screens into voice files that can be accessed through headsets.
- Charge alleges that hospital failed to provide American Sign Language interpreter for deaf patient during surgery under local anesthetic despite her request.
- Charge alleges that ski resort refused to allow two women with cerebral palsy to ride ski lift.
- Charge alleges that state agency refused to give individual with disability extra time he needed on licensing exam because of his disability.
- Charge alleges that college refused to allow student with psychiatric disorder to re-enroll after she had withdrawn because of her disorder.
- Charge alleges that fast food restaurant failed to make its menu and the process of ordering food accessible to hearing impaired persons.
- Charge alleges that bus driver refused to allow parent to bring child's wheelchair on bus.
- A number of charges which allege that restaurants and stores were not accessible to individuals with mobility impairments because they failed to install ramps and to create handicapped accessible parking or failed to keep the ramps and parking spaces cleared of ice and snow.
- Charge alleges that motel refused to allow individual with a disability to stay at motel with her service dog.
- Charge alleges that private school refused to admit student with cerebral palsy who used a walker.
- Charge alleges that police department discriminated against individuals with hearing impairments by requiring people at police station to communicate with desk officer by telephone which did not have volume controls.

- Charge alleges that when woman with multiple chemical sensitivity syndrome asked motel owner whether the motel had recently been painted and what cleaning products were used, motel owner refused to allow her to stay at the motel.
- Charge alleges that spa refused to readmit member with manic depressive disorder several years after it expelled him because of his disability-related behavior.
- Charge alleges that town refused to readmit town resident with manic depressive disorder to town offices several months after it expelled him from offices because of his behavior.
- Charge alleges that resort improperly refused to allow child with hepatitis C to enroll in children's program.

### **Racial Discrimination Cases**

- Several charges allege that waitresses served African American patrons after customers who had arrived at restaurants after them and treated them in a rude and hostile manner.
- Charge alleges that restaurant seated two African American patrons in a closed and darkened section of restaurants, away from the other patrons, and, when they asked to be moved, told them that they must sit at table they had been assigned or leave the restaurant.
- Charge alleges that bar refused to allow African American patron to enter because of her race.
- Charge alleges that taxi cab driver used racial epithets toward African American patron and forced patron to get out of the cab before reaching his destination.
- Several charges allege that store employees followed African American customers around stores and falsely accused them of shoplifting.

### **School Cases**

- Several charges allege that male students sexually harassed female students by making sexual comments to them, touching their breasts, and rubbing their bodies against them at school and that schools failed to respond appropriately to girls' complaints.
- Charge alleges that high school students harassed a student because of his sexual orientation so severely that he was forced to withdraw from the school.

- Charge alleges that students harassed student with Tourette's Syndrome and obsessive compulsive disorder at school and that school did not respond appropriately to student's complaints.
- Charge alleges that school discriminated against male applicant by refusing to admit him in order to maintain a certain male-to-female ratio.
- Charge alleges that high school refused to allow homosexual to speak at Diversity Day unless someone from religious group spoke to "balance" his presentation.
- Charge alleges that college discriminated on the basis of marital status by refusing to allow female student's male partner to live in college housing with her, although it allowed male spouses of female students to do so.

#### **Other Cases**

- Charge alleges that adoption agency discriminated against a single woman because of her marital status by not offering her adoption opportunities.
- Charge alleges that physician refused to prescribe medication to improve sexual performance for adult male patient because he was not married.

### **HOUSING**

#### **Discrimination Against Families with Children**

- Several charges that mobile home park owners refused to rent lots to prospective tenant with children because owners did not want children living in the parks.
- Charge alleges that housing provider refused to rent unit to prospective tenant with children because, the provider stated, unit was not safe for children.
- Several charges allege that housing providers refused to rent to families with children because, the providers stated, units were not large enough for families.
- Charge alleges that housing provider sent eviction notice to tenant after she gave birth because he did not want children living in complex.

- Charge alleges that housing provider sent eviction notice because tenant informed her that tenant's son's blood tests showed elevated levels of lead.
- Several charges allege that housing providers told tenants with children that the providers would not rent to families with children because of a preference for older couples or single people who did not have children.

### **Discrimination Against Public Assistance Recipients**

- Several charges allege that housing providers refused to rent to prospective tenants because tenants were "on welfare."
- Several charges allege that housing providers refused to rent to prospective tenants because they received Section 8 housing assistance.
- Several charges allege that housing providers refused to rent to prospective tenants because they received other forms of public assistance.
- Several charges allege that housing providers told prospective tenants who received public assistance that they would not rent to them because prospective tenants were unemployed.
- Charge alleges that officer of condominium association attempted to discourage woman with teenage children from purchasing unit in complex by telling her that association did not want children living there, that families with children would not be comfortable living there, and that it was not the place for her.

### **Disability Discrimination Cases**

- Charge alleges that housing provider required tenant to get rid of her pet because housing provider assumed that tenant would not be able to take care of pet since tenant used wheelchair.
- Charge alleges that housing provider refused to allow a tenant with a disability to keep a service dog she needed because of her disability.
- Charge alleges that a mobile park owner refused to rent home to prospective tenant with a disability because prospective tenant had a service dog.
- Charge alleges that housing provider refused to rent two-story unit to prospective tenant because prospective tenant used wheelchair.

- Charge alleges that housing provider refused to allow tenant who used wheelchair to move from second floor unit into vacant first floor unit.
- Several charges allege that housing providers refused to rent to prospective tenants when they learned of their psychiatric disorders.
- Charge alleges that housing provider refused to rent unit to prospective tenant when he learned that prospective tenant was client of social service agency that assisted individuals with psychiatric disorders.
- Charge alleged that housing provider refused to provide a reasonable accommodation for tenant's mobility impairment when he refused to allow her to park in space near her unit.

#### **Racial Discrimination Cases**

- Several charges allege that housing providers refused to rent to prospective tenants when they learned they were African American.
- Other charges allege that housing providers used racial epithets toward African American tenants and provided them with inferior services.
- Several charges allege that housing providers used racial slurs toward Hispanic tenants and provided them with inferior services.
- Charge alleges that housing provider treated tenant in a hostile manner and applied rules more strictly to her than to other tenants because she was from Cambodia.

#### **Other Cases**

- Charge alleges that housing provider refused to rent house to lesbian couple when she learned their sexual orientation.
- Charge alleges that housing provider sent notice of eviction to tenant because tenant cooperated in investigation of housing discrimination charge filed against housing provider by another tenant.
- Charge alleges that housing provider told prospective tenant that he would rent unit to her if she had sex with him.
- Charge alleges that housing provider attempted to have sex with unwilling female tenant when he went to her apartment to collect the rent.
- Charge alleges that housing provider refused to rent unit to single female because provider preferred to rent to married couples.

## **STATE EMPLOYMENT**

### **Sex Discrimination**

- Several charges allege that state agencies gave female employees less favorable work assignments than male employees.
- Charge alleges that state agency classified female employee's position below that of position held by man even though they did the same work.
- Charge alleges that supervisor retaliated against female employee who refused to have sex with him by telling her that he would get her fired, unfairly criticizing her performance, and giving her punitive work assignments.
- Charge alleges that supervisor created sexually hostile work environment by encouraging and participating in lewd jokes and sexually suggestive behavior.
- Charge alleges that agency refused to hire job applicant in retaliation for her complaint of sex discrimination at the agency several years earlier.
- Charge alleges that agency promoted female employee although male employee had more seniority and was more qualified for the position.

### **Other Cases**

- Charge alleges that agency discriminated against hearing impaired employee by excluding her from meetings in order to avoid having to pay American Sign Language interpreters.
- Charge alleges that agency penalized employee with a psychiatric disorder for going to appointments with psychiatrist.
- Charge alleges that agency failed to promote employee because supervisor assumed that employee could not do job because he had diabetes.
- Charge alleges that agency discriminated against job applicant because of his age by hiring younger person who was less qualified for the job.
- Charge alleges that agency discriminated against employee because of his age when it failed to promote him because it wanted someone "younger and more enthusiastic."

- Charge alleges that co-workers harassed employee because of his sexual orientation and that agency failed to take appropriate action to stop the harassment despite employee's complaints.
- Charge alleges that agency failed to hire African American job applicant even though he was the most qualified applicant for the position.
- Charge alleges that co-workers harassed employee because of his national origin by, among other things, making fun of his accent and accusing him of taking jobs away from "Americans" and that agency failed to take appropriate action to end the harassment despite employee's complaints.



## **LITIGATION**

If the Commission finds reasonable grounds to believe that discrimination occurred in a case, its staff attempts to settle the case in a manner which eliminates the discrimination and its effects. If this effort is unsuccessful, the Commission is authorized to initiate a lawsuit seeking an injunction, damages, attorney's fees, and a \$10,000 penalty. The Commission engaged in litigation in the following cases in FY 01:

**Human Rights Commission v. Benevolent and Protective Order of Elks of the United States of America and Benevolent and Protective Order of Elks, Hartford, Vermont, Lodge No. 1541, Washington Superior Court**

In 1995, the Elks repealed its rule prohibiting women from becoming members. In 1997, six women applied for membership in the Hartford Elks Lodge. Each woman had been associated with the Lodge over a long period of time, each met all the qualifications for membership, and each was recommended for membership by the Lodge's Membership Committee. Nevertheless, the Lodge rejected each of their membership applications. The Lodge had 1,008 male members and no female members at the time and had not rejected a membership application during the previous five years.

The Commission filed a lawsuit contending that the Elks denied the women membership because of their gender in violation of Vermont's Fair Housing & Public Accommodations Act. The parties completed discovery and moved for summary judgment in January 2001.

In October 2001, the court dismissed the case on the ground that the Elks is a private club and, therefore, not covered by the state's civil rights law. The Commission has appealed the decision to the Vermont Supreme Court.

**Terry Rogers and Vermont Human Rights Commission v. Wal-Mart Stores, Inc., Washington Superior Court**

This action alleges that Wal-Mart employees refused to permit a woman with emotional and hearing disorders to enter the store with her service dog and harassed her after her physician had explained to the store manager the nature of the woman's disabilities and her need for the dog.

Wal-Mart removed the case to federal court and the Commission obtained an order remanding it to state court. Wal-Mart then moved for summary judgment. In October 2001, the court denied Wal-Mart motion and set a January 2002 trial date.

**Human Rights Commission and Katherine LaPrad v. Cedar Glen  
North Association and Marjorie Westphal, Washington Superior Court**

The Commission sued a condominium association and its Treasurer for violating the prohibition in the Fair Housing & Public Accommodations Act against making statements of "preference, limitation or discrimination" in the sale or rental of housing because a person intends to occupy the housing with minor children. 9 V.S.A. § 4503(a)(3). The complaint charges that the Treasurer of the condominium association attempted to discourage a woman with teenage children from purchasing a unit in the complex by telling her that: the association did not want children living there; that families with children would not be comfortable living there; and, that it was not the place for her.

In November 2001, the court denied the defendants' motion to dismiss the complaint and ordered the parties to submit a discovery schedule and a proposed trial date.

# **GLOSSARY**

Some of the terms used in the graphs appearing on the following pages are defined below.

**Administrative Dismissal:** Cases closed for one of the following reasons: failure of the Charging Party to sign and return a charge to the Commission, failure of the Charging Party to cooperate with the investigation, failure of the Charging Party to substantiate the charge, or lack of jurisdiction.

**Final Determination:** The vote of the Commissioners on the charges in a case. Final determinations are based on the Investigative Report prepared by the staff, written comments submitted by the parties, and oral presentations to the Commissioners by the parties or their representatives at a Commission meeting. The final determination can be a finding that there are **reasonable grounds** or **no reasonable grounds** to believe that unlawful discrimination occurred. If a charge claims that discrimination was based on more than one protected category, a final determination in the case will generally include findings as to each protected category. The Commissioners may also vote to reopen a case for further investigation; if that occurs, the Commissioners will issue a final determination at a subsequent Commission meeting. If only four Commissioners take part in the deliberations on a case, with two voting to find reasonable grounds and two voting to find no reasonable grounds, the final determination is a **tie** which the Commission treats as a no grounds finding.

**Informational Inquiries:** The Commission's staff receives and responds to a large number of requests for a wide variety of information about anti-discrimination laws enforced by the Commission or other agencies and allegations of illegal acts over which the Commission does not have jurisdiction. For example, allegations of violations of constitutional rights or of state and federal statutes which the Commission is not authorized to enforce may be the subject of such inquiries.

**Pre-Determination Conciliation Agreement:** The settlement of a charge of discrimination before the Commission has made a final determination is called a Pre-Determination Conciliation Agreement (PDCA). PDCA's are voluntary agreements between the parties and frequently include terms proposed by the Commission. The Commission encourages the parties to enter into PDCA's. PDCA's are public documents.

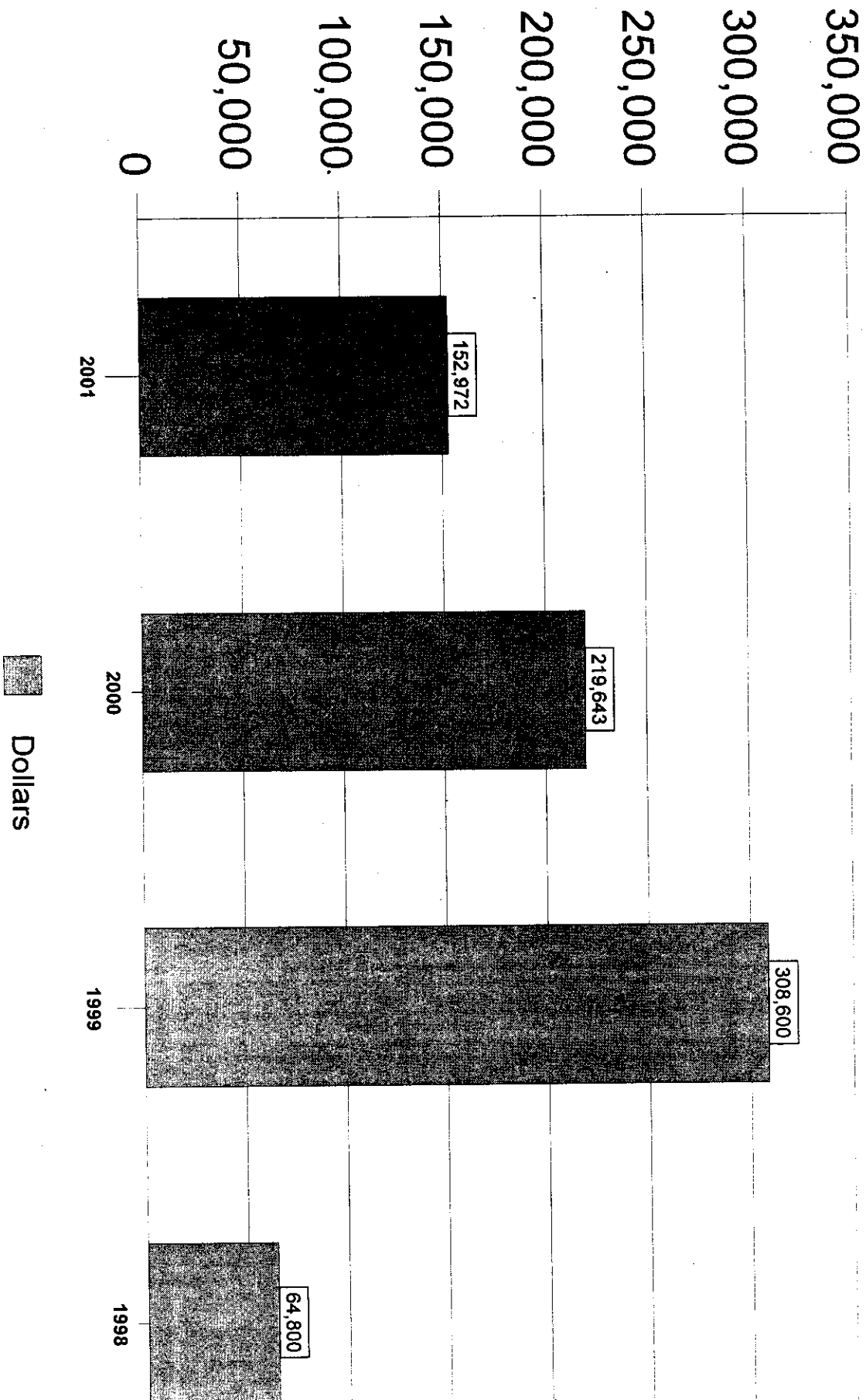
**Post-Determination Conciliation Agreement:** The settlement of a charge of discrimination after the Commission has made a final determination that there are reasonable grounds to believe that discrimination occurred is called a Post-Determination Conciliation Agreement (Post-DCA). Post-DCA's are voluntary agreements between the parties and the Commission reached in lieu of litigation. If the parties do not sign a Post-DCA within six months of the final determination, the Commission will decide whether to commence litigation or to dismiss the case. The Commission encourages parties to enter into Post-DCA's. Post-DCA's are public documents.

**Protected Category:** A characteristic or condition of an individual (such as race, sex, sexual orientation, national origin, disability). Vermont law prohibits discrimination in housing, places of public accommodation, and employment on the basis of certain protected categories. A charge filed with the Commission may allege discrimination on the basis of one or more than one protected category.

**Withdrawal:** A party may withdraw his or her charge of discrimination at any time prior to a final determination, with the approval of the Commission's Executive Director.

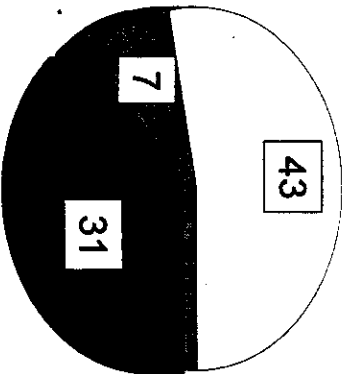


# **MONETARY RECOVERIES IN COMMISSION CASES**

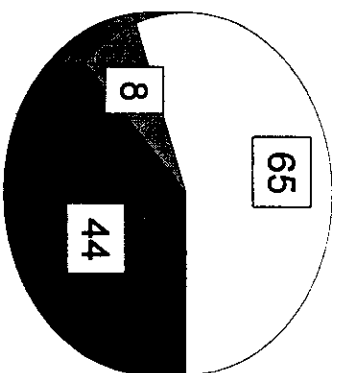


## Number of Charges Filed Annually

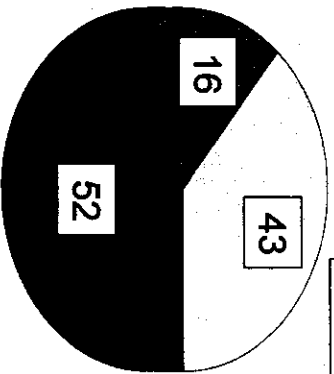
FY01-81 Charges



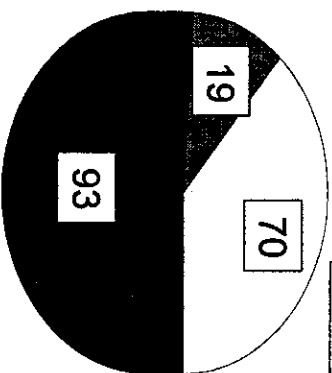
FY00-117 Charges



FY99-111 Charges



FY98-182 Charges



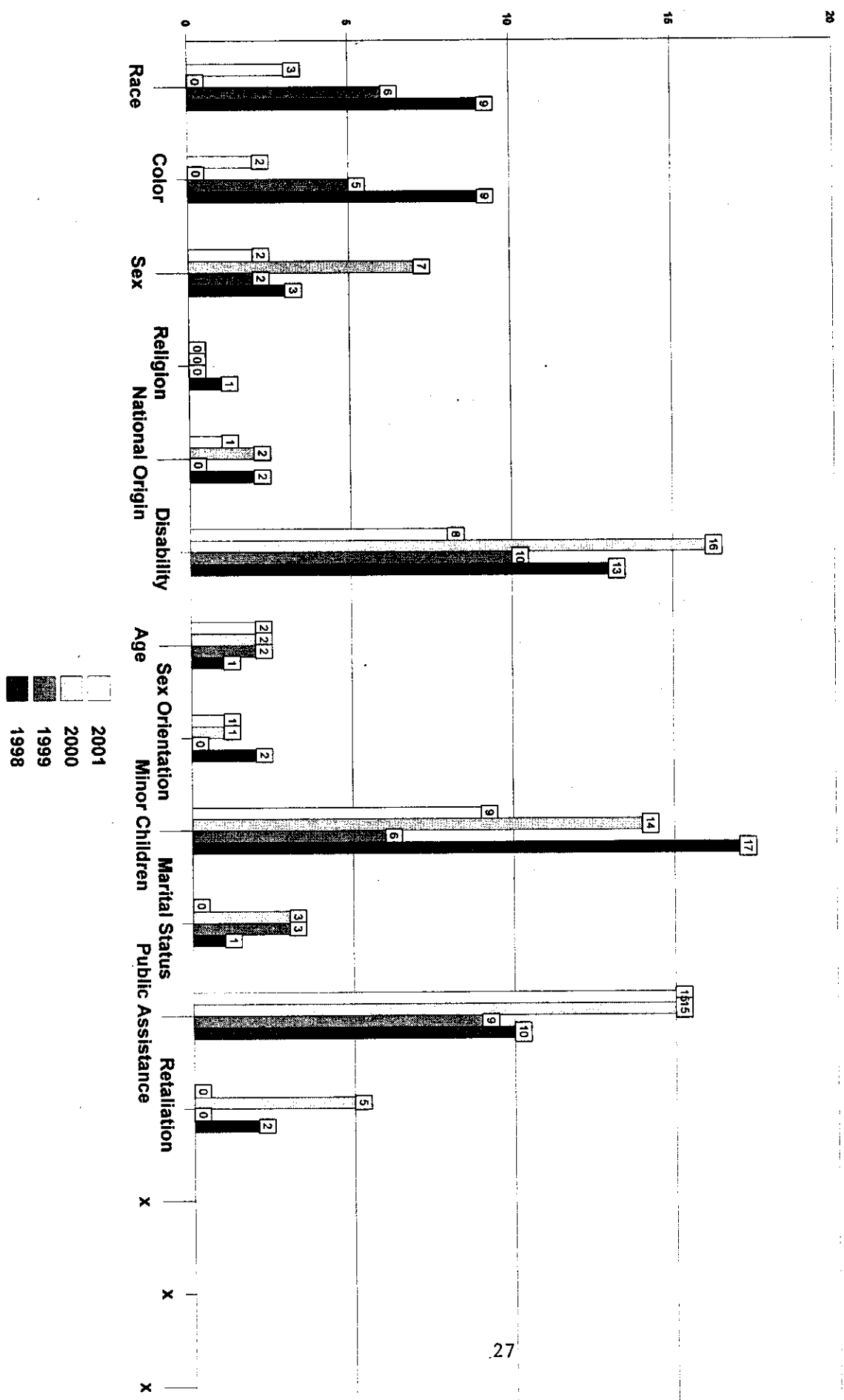
☐ Housing

☒ State Employment

☒ Public Accommodations

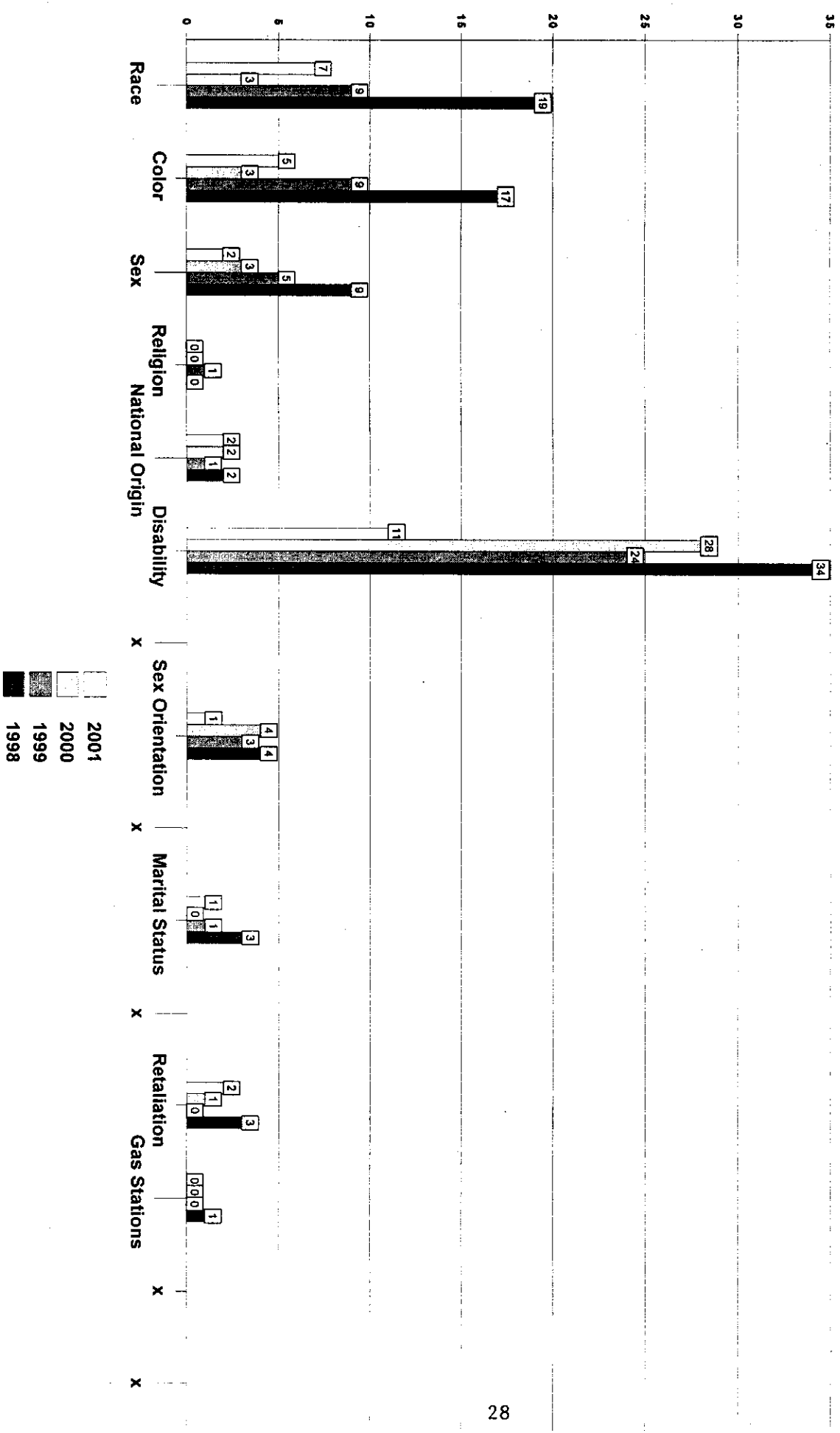
# Breakdown by Protected Category of Charges filed Annually

## HOUSING



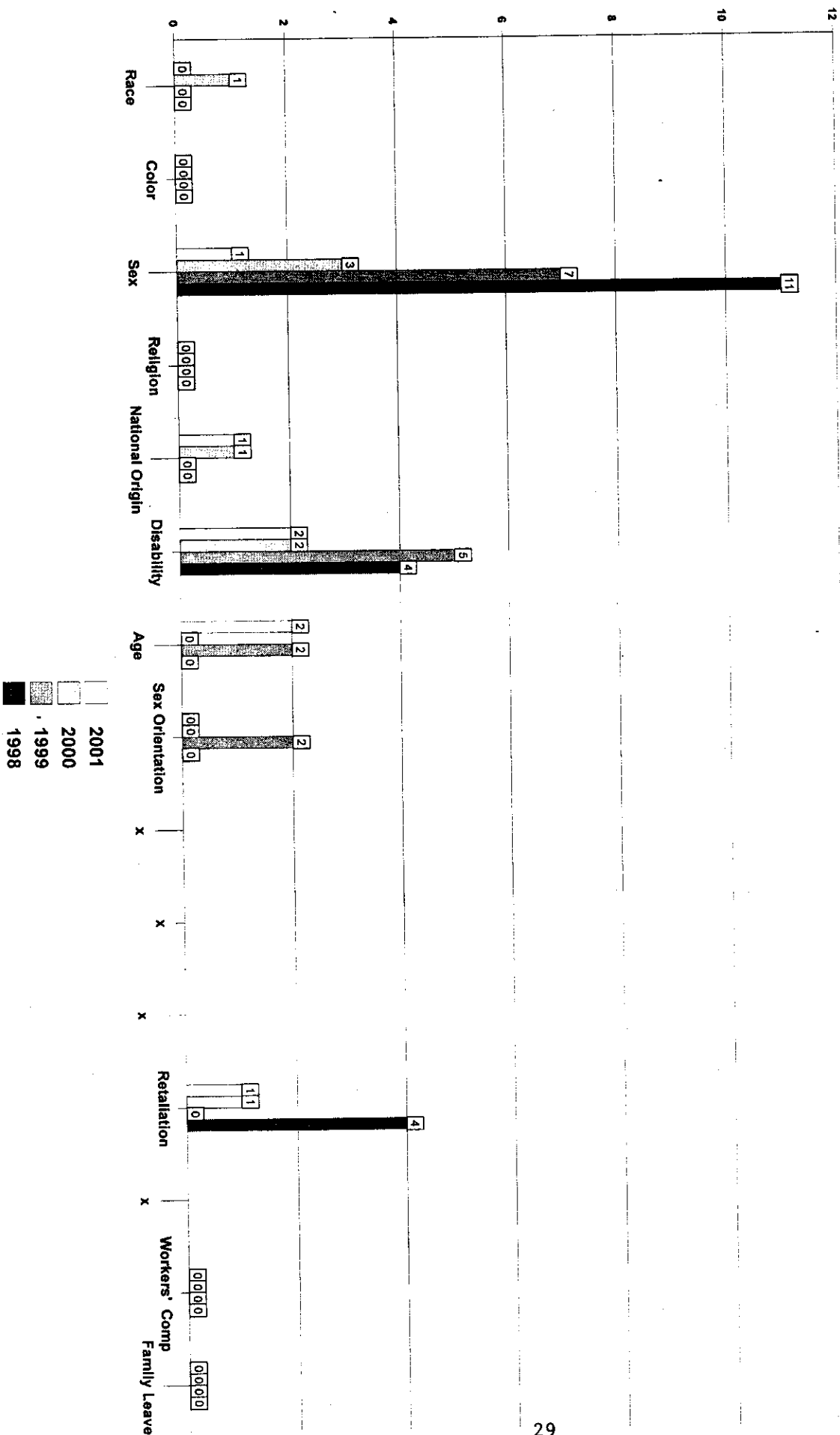
# Breakdown by Protected Category of Charges filed Annually

## PUBLIC ACCOMMODATIONS

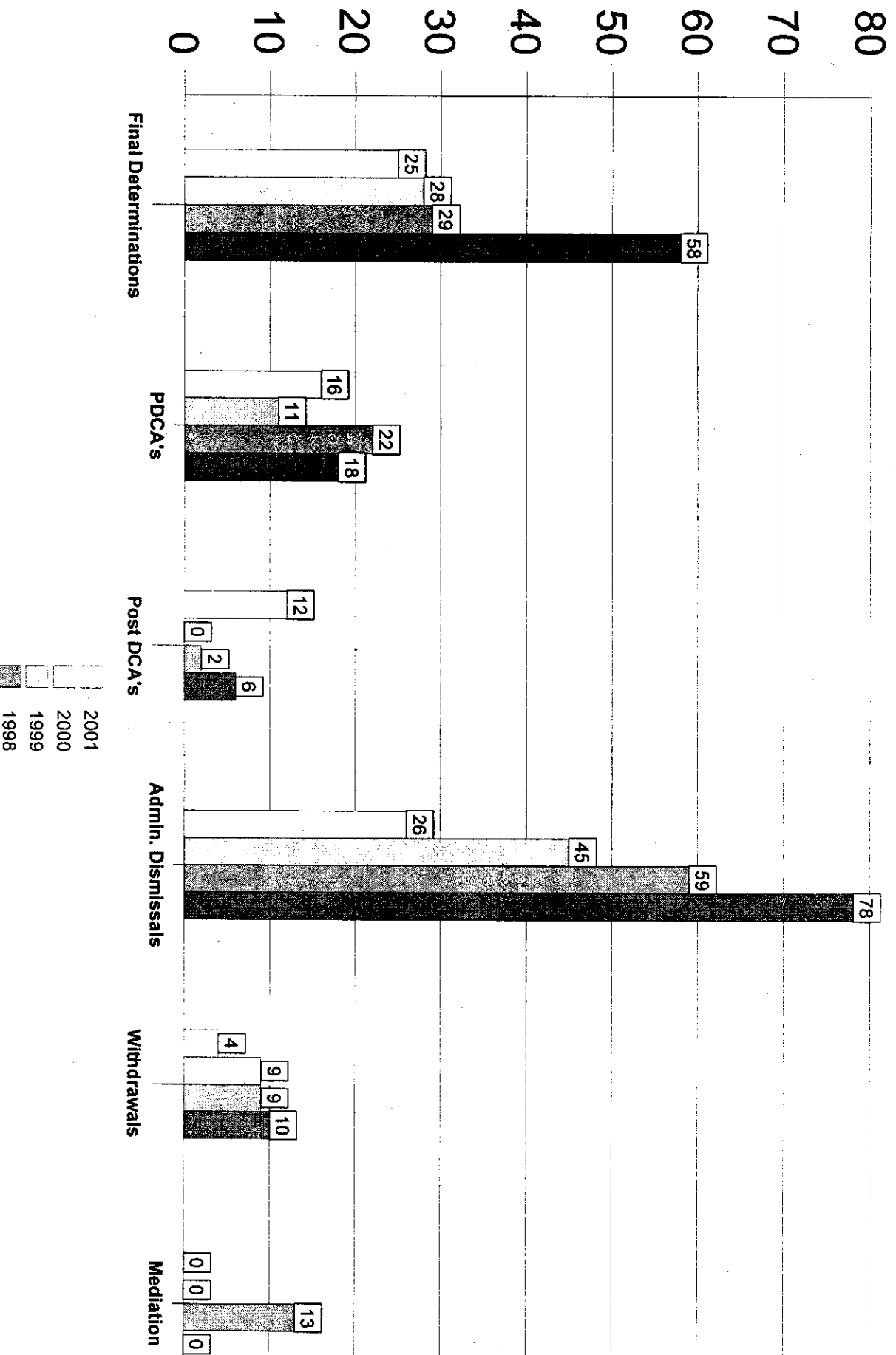


# Breakdown by Protected Category of Charges filed Annually

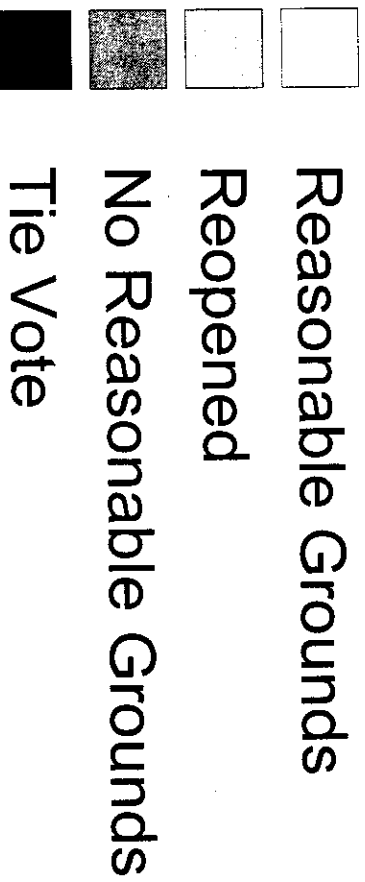
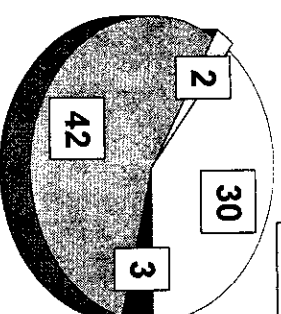
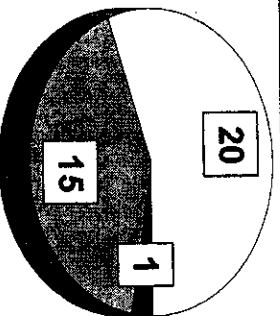
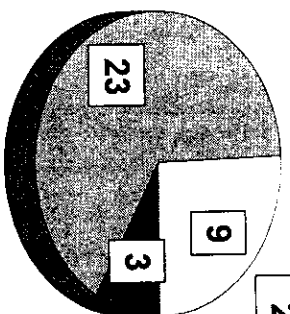
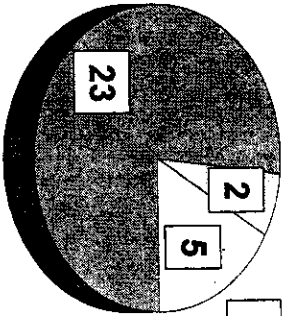
## STATE EMPLOYMENT



# Breakdown of Cases Closed Annually



# Annual Breakdown of Final Determinations



# **Number of Informational Inquiries Received Annually** **(does not include filed charges)**

